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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,902	10/03/2005	Christopher Mallet	C036510/0186296	1480

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EXAMINER	
WEAVER, SUE A	
ART UNIT	PAPER NUMBER
3781	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/528,902	MALLET, CHRISTOPHER	
	Examiner	Art Unit	
	Sue A. Weaver	3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 May 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *80-110 and 114-118* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *80-110 and 114-118* is/are rejected.

7)☒ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claim 81 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant is advised that it isn't clear what the relationship of a closure on line 2 of claim 81 has with a closure on line 2 of claim 80. This appears to be a double inclusion.

3. Claims 80, 81, 83, 84, 86 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morash '206 in view of Kornely et al '768, both of record, and Wells '743.

Note Figures 1 and 2 of Morash showing two stacks of components. Note also Figure 6 with a bottom closure. To have further provided the containers with a plastic cover extending down into the container to seal it and protect it and provide for easy separation for stacking purposes would have been obvious in view of such teaching by Kornely et al. To have sealed the covers at the rim to provide a hermetic seal would have been obvious in view of such teaching by Wells.

4. Claims 82 and 114-116 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 80 above, and further in view of Lynch '811, of record

To have used adhesive to secure the cover would have been obvious in view of such teaching by Lynch at 34,

5. Claims 85 and 117 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 80 and 114 above, and further in view of Nemeth '715, of record.

To have formed the cover of Polystyrene for clarity would have been obvious in view of such teaching by Nemeth.

6. Claims 88-94,103-110 and 118, insofar as they are definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 80, 86 and 87 above, and further in view of Williams et al WO'074, of record.

Williams et al teach the various forms of attachment claimed and to have provided Morash with them for a secure closure arrangement would have been obvious.

7. Claims 94, 96, 97, 101 and 102 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 80 above, and further in view of Verbovsky et al '053, of record.

To have alternately provided the closure with a spout near one edge and a vent for use by children in the manner of Verbovsky et al would have been obvious.

8. Claims 95-102, insofar as they are definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 94 above, and further in view of Haberman '245, of record.

To have alternately formed the spout with a slit and a vent with a slit to prevent leaking in the manner of Haberman would have been obvious.

9. Applicant's arguments with respect to claim 80 have been considered but are moot in view of the new ground(s) of rejection.

10. Note that the covers of Kornely et al also prevent binding for easier separation and inherently function to prevent contamination which might produces scratches.

Morash already teaches sterile packaging of the stacked containers. Claims 1-79 and 111-113 have been canceled.

11. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. ()_____ - _____ on _____.

(Date)

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548 and e mail address is sue.weaver@uspto.gov. The examiner can normally be reached on Tuesday-Friday (5:30-4).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor is Anthony Stashick_. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sue A. Weaver/

Primary Examiner, Art Unit 3781